



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

January 3, 2008

CERTIFIED MAIL
7006 0100 0002 2925 7164

Robert E. Willis
Department of the Army
Portland District, Corps of Engineers
P.O. Box 2946
Portland, OR 97208-2946

RE: Water Quality Certification for Maintenance Dredging at Mouth of the Columbia River

Dear Mr. Willis:

On May 21, 2007, the United States Department of the Army, Corps of Engineers, Portland District (Corps) submitted a request to the State of Washington, Department of Ecology (Ecology) for a water quality certification pursuant to § 401 of the Clean Water Act (CWA), 33 U.S.C. § 1341 (CWA § 401) for the above-referenced project.

At this time Ecology is issuing the 401 WQC for a two (2) year period. This will allow Ecology and the Corps to review and evaluate the concerns around the Shallow water site, as well as giving the Corps, EPA and other stakeholders time to develop a regional sediment management strategy for the Mouth of the Columbia River.

If you have any questions, please contact me at 360-407-0271 or Loree' Randall 360-407-6068.

Sincerely,

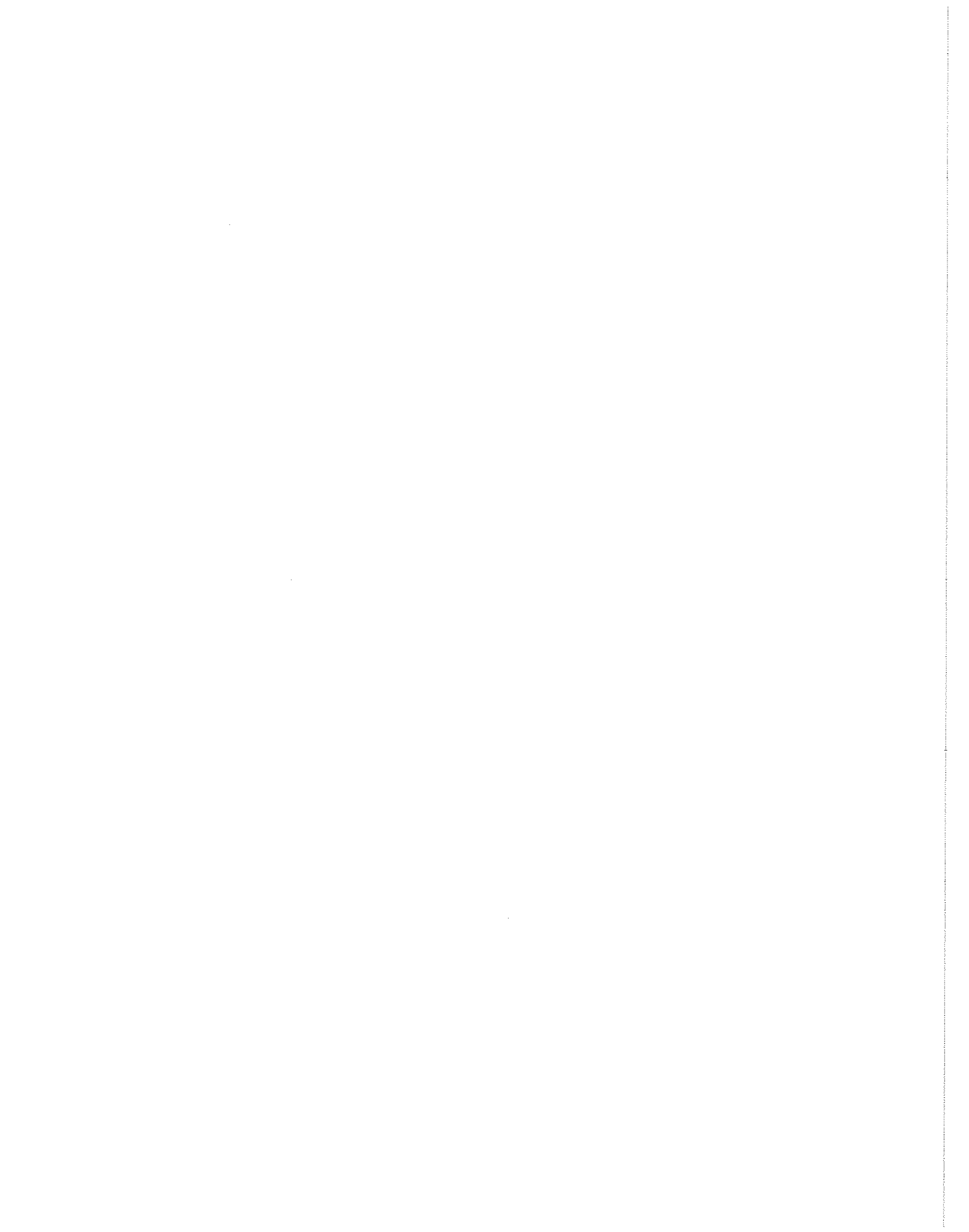
A handwritten signature in black ink that reads "Paula Ehlers".

Paula Ehlers, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

PE:dn

cc: Loree' Randall, Ecology
Alex Cyril, DEQ
Sally Puent, DEQ
Cathy Tortorici, NOAA Fisheries
Dale Blanton, DLCD
Gary Voerman, EPA





IN THE MATTER OF GRANTING A)	Order No. 5334
WATER QUALITY)	Corps No. NWPOD-CRA-F-06-001
CERTIFICATION TO)	Maintenance dredging of entrance reach
United States, Department of the Army)	of lower Columbia navigation channel, Pacific
Corps of Engineers, Portland District)	County, Washington.
in accordance with 33 U.S.C. 1341)	
(FWPCA § 401), RCW 90.48.120,)	
RCW 90.48.260 and Chapter 173-201A)	
WAC)	

TO: Robert E. Willis
 Department of the Army
 Portland District, Corps of Engineers
 P.O. Box 2946
 Portland, OR 97208-2946

On May 21, 2007, the United States, Department of the Army, Corps of Engineers, Portland District (Corps) submitted a request to the State of Washington, Department of Ecology (Ecology) for a water quality certification pursuant to § 401 of the Clean Water Act (CWA), 33 U.S.C. § 1341 (CWA § 401) for the above-referenced project. The request for certification was made available for public review and comment by Ecology on July 19, 2007.

The proposed project involves the annual maintenance dredging of the entrance reach of the lower Columbia River navigation channel (MCR dredging) from river mile (RM) -3.0 to RM +3.0. An average volume of four (4) to five (5) million cubic yards of sediment is dredged every year from shoals that reoccur at several locations in the entrance reach. The entrance reach is to be dredged to the authorized depth of -55 and -48 feet CRD (plus up to 5 feet of over-depth dredging) and authorized width of 2640 feet. Dredging is to be done entirely by hopper dredge, as it is the only type of dredge that can work safely in the extreme wave and current conditions that can occur at the mouth of the Columbia River.

Dredged material is proposed to be disposed of at one or more of the following in-water disposal sites:

- North Jetty Site
- Shallow Water Site
- Deepwater Site

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW and with other applicable state laws; and,
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260, and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean the U.S. Army Corps of Engineers, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters to the Federal Permit Coordinator, PO Box 47600, Olympia WA 98504. Any submittals shall reference Order No. 5334 and Corps No. NWPOD-CRA-F-06-001.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 21, 2007. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.

5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the project manager, construction managers and lead workers, and state and local government inspectors.
7. The Applicant shall provide access to the dredging and disposal sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
10. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Dredging:

1. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
 - a. Hopper and pipeline dredges shall be operated with the intake head at or below the surface of the sediments being removed during all periods of operation. Reverse purging of the intake line shall be kept to an absolute minimum. Should purging be necessary, the intake line shall be raised no more than three (3) feet above the bottom.
 - b. The dragheads on a hopper dredge shall be lowered to at least twenty (20) feet below the surface of the river if water is pumped through the dragheads to flush out the hopper bins.
2. Re-dredging of disposed materials is not authorized by this Order. Should mounding or other circumstances make it necessary to re-dredge materials from an approved in-water disposal site, the Corp shall request a separate CWA § 401 certification from Ecology for that activity.

C. Disposal of Dredged Material:

1. In order to maximize retention of sand in the littoral system for beneficial uses, dredged materials shall be placed within existing disposal sites (North Jetty and Shallow Water) as well as other approved nearshore sites.
2. Disposal of materials in the Deepwater Site is considered wasting of the littoral sand resource. Therefore, the Corps shall only use the Deepwater Site as a contingency when a determination has been made that the use of the other authorized sites would result in unacceptable risk to navigational safety.
3. Disposal of material at the North Jetty shall not occur after October 1st of a given year.

D. Monitoring and Reporting:

1. The Corps shall submit a draft Annual Use Plan (AUP) to Ecology for review and comment 30 days prior to dredging and disposal. The Corps shall include for each proposed disposal site a section detailing proposed disposal thresholds (*e.g.*, maximum accumulation, weather conditions, coordination protocols, time of year, etc.) with anticipated management responses if any given threshold is likely to be or has been reached. The Corps shall prepare and submit a final AUP to Ecology for review and comment two (2) days prior to starting dredging and disposal. Any changes to the AUP during dredging and disposal shall be submitted to Ecology for its review. The management protocol for each site shall ensure that mounding does not occur, which could trigger the need for re-dredging and resultant impacts to beneficial uses. In the AUP submitted to Ecology, the Corps shall identify the model that it will utilize for estimation of wave height and shall set forth its justification for the use of the model selected.
2. Bathymetric surveys at the Shallow Water site and the North Jetty site shall be conducted: (a) pre-disposal; (b) twice a month during the dredging season, (if weather and tides present safety problems then a survey should be conducted at least monthly); and, (c) once post-disposal. During the dredging season, the survey frequency may be increased, if necessary, to ensure the accumulation thresholds identified in the AUP are not exceeded. The survey data shall be submitted to Ecology upon availability to the Corps. If the Corps posts the information on a web site instead of sending electronic copies the Corps shall notify Ecology via email that the information is posted.
3. Daily records shall be generated detailing the amount of material disposed, the geographic locations given to the dredges for disposal areas and the GPS coordinates (or other approved location information) of actual disposal events performed by the dredges.

These reports shall be transmitted electronically to Ecology upon request.

4. A yearly report summarizing the information in D2 and all other biological and physical studies undertaken relative to the dredging and disposal operation shall be compiled and submitted to Ecology within six (6) months of the end of the dredging season. The Corps can request an extension of this time by submitting a written request with the reason for the extension and the new timeframe for Ecology's approval.
5. The Corps shall continue monitoring and modeling to determine sand dispersal (direction, rate and pathways) from in-water disposal sites to ensure that water quality and the beneficial uses of the State are protected. The monitoring and modeling should make use of previously collected data and modeling results as well as more frequent and larger area bathymetric surveys and new monitoring technologies to measure waves, currents, and bottom suspended sediment concentration. Modeling efforts should include wave transformation, sediment transport, dredged material fate, and morphology change. Results of the final monitoring and modeling information shall be submitted to Ecology upon availability to the Corps.
 - a. Within 6 months of the issuance of this Order, the Corps shall submit a list of all the studies and data that they have related to wave models, sediment fate and transport, and research on Dungeness crab that has been conducted at the Mouth of the Columbia River. The Corps can request an extension of this time by submitting a written request with the reason for the extension and the new timeframe for Ecology's approval.
 - b. Within 1 year of the issuance of this Order, the Corps, in conjunction with Ecology shall convene a "Science Advisory Team" to review all the studies and data identified in 5 a.
6. The Corps shall continue to cooperate with Ecology, and other Washington and Oregon state resource agencies to develop and implement an integrated Regional Sediment Management plan which optimizes management and beneficial re-use of materials necessary for removal from the Columbia River system, particularly with regard to loss of sand from the littoral system and how this impacts coastal erosion and beneficial uses, including Dungeness crab.

E. Emergency and/or Contingency Measures:

1. If dredging/disposal operations are found not to be in compliance with the provisions of this Order, or result in conditions causing distressed or dying fish, the operator shall immediately take the following actions:
 - i. Cease operations.
 - ii. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.

- iii. In the event of finding distressed or dying fish, the operator shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides. Ecology may require such sampling and analyses before allowing the work to resume.
- iv. Notify Ecology and WDFW of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

F. Spill Prevention and Control:

- 1. Any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited.
- 2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. Proper security shall be maintained to prevent vandalism.
- 3. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled substances and used cleanup materials.
- 4. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to Ecology's Southwest Regional Office at (360) 407-6300 (a 24-hour phone number).

G. Duration of Water Quality Certification:

- 1. This Water Quality Certification shall remain in effect for two (2) year from date of issuance. However, Ecology reserves the right to reassess the terms of this Water Quality Certification and amend or revoke, as necessary, in the event that:
 - a. New sources of potential contamination are discharged or otherwise stand to significantly affect the quality of sediments dredged from the entrance reach of the lower Columbia River navigation channel; or,
 - b. New information indicates that dredging and/or disposal activities are having a significant adverse impact on water quality or characteristic uses of the lower Columbia River.

H. Notification:

The Corps or its designated contractor shall notify Ecology at least fourteen (14) days prior to the scheduled start of dredging in any year. Ecology's contact for this Water Quality Certification is Loree' Randall, (360) 407-6068.

I. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 - 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

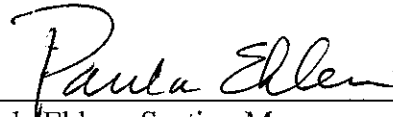
Department of Ecology
Northwest Regional Office
Attn: Loree' Randall
300 Desmond Dr. SE
Lacey, WA 98503

For additional information visit the Environmental Hearings Office Website:
<http://www.cho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43 21B 320. These procedures are consistent with Ch. 43 21B RCW.

Dated Jan 3, 08 at Lacey, Washington.

A handwritten signature in cursive script, reading "Paula Ehlers", written over a horizontal line.

Paula Ehlers, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington